

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**THE ESTATE OF BETTIE JEAN WALDRUP,  
DECEASED, BY AND THROUGH JAMES W.  
WALDRUP, HER NEXT FRIEND,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 4:05CV98-P-B**

**NATIONAL HERITAGE REALTY d/b/a  
INDIANOLA HEALTH & REHABILITATION  
CENTER, ET AL.,**

**DEFENDANT.**

**ORDER**

These matters come before the court upon Defendants' Motion to Dismiss Indianola Health & Rehabilitation Center [9-1] and Motion to Dismiss First Amended Complaint by Defendant Indianola Health & Rehabilitation [17-1]. Upon due consideration of the motions and the responses filed thereto, the court finds as follows, to-wit:

The motions should be denied as moot given the court's December 20, 2005 Order wherein the court granted the plaintiff's motion to substitute "National Heritage Realty, Inc. d/b/a Indianola Health and Rehabilitation Center" in place of all named defendants originally identified.

**IT IS THEREFORE ORDERED AND ADJUDGED** that Defendants' Motion to Dismiss Indianola Health & Rehabilitation Center [9-1] and Motion to Dismiss First Amended Complaint by Defendant Indianola Health & Rehabilitation [17-1] are both **DENIED AS MOOT**.

**SO ORDERED** this the 27<sup>th</sup> day of December, A.D., 2005.

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/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE